

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN M. WASSON,

2:15-CV-01279-SU

Plaintiff,

ORDER

v.

UNITED STATES, ROBERT VARNER,
BRETT THOMAS, CHRIS HELBERG,
JOHN MA YTE, DEWAYNE ROSS, and
KATHLEEN M. ANDERS,

Defendants.

BROWN, Judge.

On July 14, 2015, Magistrate Judge Patricia Sullivan issued an Order (#4) denying Plaintiff's Application (#1) to Proceed *In Forma Pauperis*. On August 10, 2015, Plaintiff filed an Appeal (#5) of Magistrate Judge Decision, which the Court construes as Objections to the Order denying Plaintiff's Application. The matter is now before this Court pursuant to Federal Rule of Civil Procedure 72(a).

In accordance with Rule 72(a), "[w]hen a pretrial matter not dispositive of a party's claim or defense is referred to a magistrate judge to hear and decide, the magistrate judge must promptly conduct the required proceedings and, when appropriate, issue a written order stating the decision." The standard of review for an order with objections is "clearly erroneous" or "contrary to law." See also 28 U.S.C. § 636(b)(1)(A) (applying the "clearly erroneous or contrary to law" standard of review for nondispositive motions). If a ruling on a motion is not determinative of "a party's claim or defense," it is not dispositive and, therefore, is not subject to the *de novo* review that is required for proposed findings and recommendations that address dispositive motions. See 28 U.S.C. § 636(b)(1)(B).

The Magistrate Judge denied Plaintiff's Application to Proceed *In Forma Pauperis* on the ground that Plaintiff did not establish he was unable to pay the filing fee in this matter without undue hardship because Plaintiff noted in his Application that he received \$916 per month in income and had \$375 in monthly expenses. In his Objections, however, Plaintiff supplemented his Application and established he has \$916 in monthly income and \$539 in monthly expenses. Based on this supplemental information, the Court finds Plaintiff cannot pay the \$400 filing fee in this matter without undue hardship.

Accordingly, the Court reverses the Order denying

Plaintiff's Application and grants Plaintiff's Application to Proceed *In Forma Pauperis*.

CONCLUSION

The Court **REVERSES** Magistrate Judge Sullivan's Order (#4) denying Plaintiff's Application (#1) to Proceed *In Forma Pauperis* and **GRANTS** Plaintiff's Application to Proceed *In Forma Pauperis*.

IT IS SO ORDERED.

DATED this 14th day of October, 2015.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge